

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 2641 - SB 2532

March 7, 2022

SUMMARY OF BILL: Legalizes and decriminalizes the possession and consumption, of an acceptable form of cannabis, as defined by this act, and as acquired in an approved state.

“Acceptable form of cannabis” is defined as oils, tinctures, patches, sprays intended for sublingual or buccal administration, capsules, pills, suppositories, ointments, lotions, lozenges, liquids, and vapors; other portions of the cannabis plant; and any mixture or preparation thereof that is concealed in its manufacturer's original packaging and labeling from an approved state and that meets labeling and other specifications as determined by the commission in rule. Specifies that these are the only acceptable forms of medical cannabis allowed for lawful possession.

Authorizes a qualified patient or designated caregiver in actual possession of a qualified patient identification card or designated caregiver identification card to possess up to:

- Three grams of concentrated product; or
- Three thousand milligrams of infused products.

Redefines the definition of “marijuana” as it pertains to criminal offenses, thereby authorizing possession of marijuana that contains less than 0.9 percent of delta-9 tetrahydrocannabinol (THC).

To be a qualified patient, you must be a resident of this state, have been diagnosed by a qualified physician with a qualifying medical disease, filled out an application, paid the \$35 nonrefundable application fee to the Commission, and have registered with the Tennessee Medical Cannabis Commission (Commission) and have subsequently received a qualified patient identification card. Such card expires one year from the date of issuance.

To be a designated caregiver, it is required that you be a resident of this state, have agreed to assist a qualified patient, filled out an application with the Commission, paid the \$50 nonrefundable application fee to the Commission, passed a criminal background check (if the caregiver is not the parent or legal guardian of the qualified patient) and have subsequently received a designated caregiver identification card from the Commission. Such card expires after one year, on the last day of the month in which the card was issued.

Establishes that to acquire a replacement card, a fee of \$15 shall be charged.

Authorizes the Commission to charge a reasonable fee for the issuance, replacement, and renewal of either identification card. Furthermore, the Commission is authorized to enter into a contract with a third-party vendor to issue identification cards.

Defined a “qualified physician” as person who holds an active, valid, and unrestricted license as a physician or an osteopathic physician under the laws of this state.

Requires the Commission to create and maintain a secure, electronic, and online patient registry for qualified physician, qualified patients, and designated caregivers. Such registry must be accessible by law enforcement agencies, qualified physicians, and practitioners licensed to prescribe prescription drugs.

Creates a Class A misdemeanor offense against a qualified physician who issues a written certification for a patient without a reasonable belief that the patient is suffering from a qualifying medical disease or condition.

Creates a Class A misdemeanor offense against a person who fraudulently represents that the person has a qualified medical condition to a qualified physician for the purpose of being issued a written certification.

Creates additional misdemeanor offenses against qualified patients and designated caregivers who fail to display an identification card upon request by a law enforcement officer.

Creates a Class E felony offense for a person who intentionally possesses a blank, forged, stolen, fictitious, fraudulent, counterfeit, or otherwise unlawfully issued qualified patient identification card or designated caregiver identification card.

Creates a Class D felony offense for a person who knowingly manufactures a blank, forged, stolen, fictitious, fraudulent, counterfeit, or otherwise unlawfully issued qualified patient identification card or designated caregiver identification card.

Authorizes the Commission to designate additional states as approved states, considering whether the other states allow participation in a medical cannabis program by residents of this state.

Defines “approved state” as the states of Arkansas, Delaware, Missouri, Ohio, Oklahoma, Rhode Island, and Utah and any other state approved by the Commission.

FISCAL IMPACT:

Increase State Revenue –

\$2,705,600/FY22-23/Tennessee Medical Cannabis Commission
\$5,411,300/FY23-24 and Subsequent Years/
Tennessee Medical Cannabis Commission

\$175,800/FY22-23/TBI

\$175,800/FY23-24/TBI

\$3,500/FY24-25 and Subsequent Years/TBI

Increase State Expenditures –

\$5,168,400/FY22-23/Tennessee Medical Cannabis Commission
\$260,900/FY23-24/Tennessee Medical Cannabis Commission

\$109,500/FY22-23/TBI

\$109,500/FY23-24/TBI

\$2,200/FY24-25 and Subsequent Years/TBI

Assumptions:

Revenue – Tennessee Medical Cannabis Commission

- This legislation authorizes the possession of cannabis that has less than 0.9 percent of delta-9 THC from an approved state, and in authorized, limited forms.
- It does not legalize the sale or dispensing of cannabis, but rather, allows possession for those who acquire an amount of non-combustible form of cannabis from an approved state.
- The Tennessee Medical Cannabis Commission will issue identification cards.
- Qualified patient identification cards (QPCs) cost \$35 at application and renewal.
- Qualified caregiver identification cards (QCCs) cost \$50 at application and renewal.
- Replacement of a card or update requiring a new card costs \$15 per instance.
- Both types of IDs have one-year renewal cycles.
- This legislation does not specify if application and renewal fee revenue stay with the Commission. For purposes of this fiscal note, it is assumed such fee revenue stays with the Commission and is carried forward into perpetuity.
- It is assumed that approximately 0.5 percent of cardholders will require a replacement card annually.
- It is assumed that in the first fiscal year upon enactment, or FY22-23, there will be 70,000 QPCs issued and 5,000 QCCs issued, as well as an estimated 375 replacement cards issued $[(70,000 + 5,000) \times 0.5\%]$.
- It is assumed that in the second fiscal year and each subsequent year, or FY23-24, there will be an average of 140,000 QPCs issued and 10,000 QCCs issued, as well as an estimated 750 replacement cards issued $[(140,000 + 10,000) \times 0.5\%]$.
- In FY22-23, there will be an increase in state revenue to the Commission of \$2,705,625 $[(70,000 \times \$35) + (5,000 \times \$50) + (375 \times \$15)]$.

- In FY23-24 and subsequent years, there will be an increase in state revenue to the Commission of \$5,411,250 $[(140,000 \times \$35) + (10,000 \times \$50) + (750 \times \$15)]$.

Expenditures – Tennessee Medical Cannabis Commission

- This legislation requires the Commission to issue QPCs and QCCs.
- The Commission is attached administratively to the Department of Health (DOH).
- Based on information from the DOH, the Commission currently has 3 full-time employees – an executive director, an attorney, and administrative personnel.
- Based on information from the Department of Health, the Commission would require additional staff to process applications –2 regulatory board administrative assistants-2, and 1 administrative assistant-1.
- There will be a recurring increase in state expenditures of \$160,863 $\{[(\$41,148 \text{ salary} + \$13,761 \text{ benefits} + \$200 \text{ supplies}) \times 2 \text{ regulatory board administrative assistant-2 positions}] + [(\$37,320 \text{ salary} + \$13,125 \text{ benefits} + \$200 \text{ supplies}) \times 1 \text{ administrative assistant-1 position}]\}$ in FY22-23 subsequent years.
- There will be a one-time increase in state expenditures associated with these new positions of \$7,500 (\$3,000 computers + \$4,500 network/technology).
- Additionally, this legislation requires the Commission to create and maintain a secure, electronic, and online patient registry for qualified physician, qualified patients, and designated caregivers. Such registry must be accessible by law enforcement agencies, qualified physicians, and practitioners licensed to prescribe prescription drugs.
- Based on information from the DOH, it is estimated that such system would cost \$5,000,000 to procure and \$100,000 in annual maintenance costs.
- An increase in in state expenditures to the Commission in FY22-23 of \$5,168,363 $(\$160,863 + \$7,500 + \$5,000,000)$.
- An increase in state expenditures to the Commission in FY23-24 and subsequent years of \$260,863 $(\$160,863 + \$100,000)$.

Background Checks – Tennessee Bureau of Investigation

- This legislation requires qualified caregivers to undergo a background check.
- The TBI charges a fee of \$35.15 to collect one sample of fingerprints and perform one criminal background check.
- Of the \$35.15, \$13.25 is forwarded to the FBI to run a check, \$8.65 is forwarded to the vendor that collects the fingerprints, and \$13.25 is retained by the TBI to run a check through their system.
- All 5,000 of the estimated qualified caregivers will undergo background checks in FY22-23.
- In FY23-24, an additional 5,000 qualified caregivers will undergo a background check.
- In FY24-25 and subsequent years, an estimated 100 qualified caregivers will be required to undergo a background check.
- In FY22-23 and FY23-24, TBI will realize \$175,750 $(5,000 \times \$35.15)$ in revenue and expenditures of \$109,500 $[5,000 \times (\$13.25 + \$8.65)]$.
- In FY24-25 and subsequent years, TBI will realize \$3,515 $(100 \times \$35.15)$ in revenue and expenditures of \$2,190 $[100 \times (\$13.25 + \$8.65)]$

Incarceration

- Tennessee Code Annotated § 39-17-402(16)(A) defines “marijuana” as all parts of the plant cannabis, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, including concentrates and oils, its seeds or resin.
- This legislation will redefine marijuana to exclude oil or other products containing less than nine-tenths of one percent (0.9%) of delta-9 tetrahydrocannabinol.
- Pursuant to Tenn. Code Ann. § 39-17-415(a), marijuana is a Schedule VI drug.
- Pursuant to Tenn. Code Ann. § 39-17-417, it is an offense to manufacture, deliver, sell, or possess a controlled substance.
- Excluding from the definition of “marijuana” oil or other products containing less than nine-tenths of one percent (0.9%) of delta-9 tetrahydrocannabinol will not result in a significant fiscal impact, as it is estimated that no significant amount of arrests involves oil or other products containing less than nine-tenths of one percent (0.9%) of delta-9 tetrahydrocannabinol.
- In addition, it is assumed that the newly established misdemeanor and felony offenses in this legislation will not result in a significant number of prosecutions.
- This legislation is estimated to have no significant impact on incarceration in this state.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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